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AN INTRODUCTION TO THE HISTORY OF THE LAW OF REAL PROPERTY. With Original Authorities. By Kenelm Edward Digby, M. A., assisted by William Montagu Harrison, M. A. Fifth Edition. Oxford: At the Clarendon Press. London: Henry Frowde. 1897. pp. xiv. 448.

A new edition of a work so well known as Digby's *History of the Law of Real Property* might be dismissed without extended comment. Especially is this so in the present instance, as the changes from the last edition are practically limited to revision in the light of Pollock and Maitland's *History of English Law*. But the book is such a good one, that even under these circumstances some space may perhaps be justifiably devoted to it.

Mr. Digby is one of those who find the source of the English manorial system in the Teutonic village community rather than in any Roman prototype. To an account of the growth of this system from its beginnings under the Anglo-Saxons to its final development after the conquest he devotes the early part of his book. Though his method of incorporating copious extracts from Glanvill and Bracton in his text, to such an extent as to make his own work at times extremely fragmentary, renders this portion of the book less readable than might be desired, yet it is needless to say that it contains much that is of interest to the unlearned. One may read here of the origin of dower in the marriage gift of land or chattels from the husband to his wife; of the change by which the interest of a lessee for years grew from a mere contract right against the lessor to a property right against the world, and still did not lose its original character as part of the personal estate; of the early conception of servitudes as so far partaking of the nature of freehold rights that the appropriate remedy for their disturbance was the assize of novel disseisin; of the distinction between the notion of a remainder, peculiar to English law, and the "substitution" of some of the systems based on the civil law.

Perhaps the most satisfactory part of the book is that which deals with the origin of uses and the effect of the Statute. The curiously scholastic spirit in which the latter was construed, and the realistic conception of a use which led to the doctrine of the non-applicability of the statute to a "use on a use" are interestingly treated. "The curious point is that these effects of the Statute of Uses are the result, not of consideration of public policy influencing either the legislature or the tribunals, but of the supposed logical consequences of the metaphysical conception of a use." p. 371, note.

The author occasionally asserts views the soundness of which, in the light of recent criticism, may certainly be questioned. For example, he speaks (p. 364) of the so-called rule that an estate cannot be limited to the unborn son of an unborn person as something entirely distinct from the rule against perpetuities. And on page 361 he says that if a limitation could be regarded as a remainder, it became settled law that it could not be regarded as a springing or a shifting use, even though void as a remainder. Mr. Gray, in his book on *Perpetuities*, has pointed out that the application under such circumstances of the doctrine that future limitations should be construed as remainders wherever possible, not only seemed "the very wantonness of destruction," but was not required by the authorities.

But, on the whole, Mr. Digby's work is careful and scholarly, and nowhere else can one find so much learning on the history of our land law compressed into so small a space.

R. G. D.

A TREATISE ON THE LAW OF CONTRACT OF PLEDGE. As governed by both the Common Law and the Civil Law. By Henry Denis. New Orleans: F. F. Hansell & Bro., Ltd. 1898. pp. xxxi, 619.

This book is not in any way an attempt to write a comprehensive text-book on the law of pledge,—it aims simply at an examination of the present state of the common law on the subject in comparison with the civil law from which it is largely derived, and with the later forms of the civil law,—particularly the Louisiana Code. In the civil law pledges are a definite branch of the law clearly understood and worked out; in the common law on the other hand the subject is constantly confused with the general topic of bailments and with mortgages of chattels. And a comparison of the two systems is the more valuable and necessary, because the civil law has been so often half understood and misunderstood by the common law commentators,—notably by Story.

To set right these errors, to give a clear analytical comparison of the two systems,—so much this book has aimed at and accomplished. The differences are noted, the relative advantages commented upon, the diverging tendencies clearly pointed out. The whole method of the book is scientific, the work careful and systematic, the style admirably terse and straightforward, and if didactic, at least convincing. It is to be regretted that the citation of cases are so infrequent, and the references to the common law commentators so many, and again that the author has seen fit to place so little emphasis on tracing the growth of the law regarding pledges in the two systems.

This summary treatment and lack of attention to recent cases has led, in at least one instance, to actual error, p. 206, where it is stated as established American law, that the pledgee may repledge without consent of the pledgor,—the question is still an open one in many jurisdictions. Yet on the whole the book cannot fail to lead to a clearer understanding of the common law in regard to pledges.

J. P. C., JR.

BOOKS RECEIVED.

[Entry under this head does not preclude further notice of a book in this or in a later number of the Review.]

A TREATISE ON THE LAW OF THE CONTRACT OF PLEDGE. By Henry Denis. New Orleans: F. F. Hansell & Bro. 1898.

REPORT OF THE TWENTY-FIRST ANNUAL MEETING OF THE AMERICAN BAR ASSOCIATION. Philadelphia: Dando Printing and Publishing Co. 1898.

THE FEDERAL COURTS. By Charles V. Simonton. 2d edition. Richmond, Va. B. F. Johnson Publishing Co. 1898.

THE JURISDICTION OF THE FEDERAL COURTS. By Howard M. Carter. Boston: Little, Brown & Co. 1899.

THE LAW OF PARTNERSHIP. By Francis M. Burdick. Boston: Little, Brown & Co. 1899.